

**Fish & Wildlife Department**  
1 National Life Drive, Davis 2  
Montpelier, VT 05620-3208  
[www.VTFishandWildlife.com](http://www.VTFishandWildlife.com)

[phone] 802-828-1454  
[fax] 802-828-1250  
[tdd] 802-828-3345

*Agency Of Natural Resources*

October 24, 2019

Senator Jeannette K. White, Chair  
Senator Brian Collamore, Co-Chair  
Representative Maida Townsend, Co-Chair  
Senate Government Accountability Committee  
115 State Street  
Montpelier VT 05633-3301

In re: Protect Our Wildlife Letter dated October 17, 2017

Dear Honorable Committee Members,

I am writing in response to a letter dated October 17, 2019 from Protect Our Wildlife, expressing concerns about black bears killed in defense of property and persons. The letter alleges a failure to enforce state law by the Vermont Department of Fish and Wildlife. Thank you for providing a copy of the letter on October 21, 2019 and for the opportunity to present the facts to this Committee.

The Department mission is to conserve “all species of fish, wildlife, and plants and their habitats for the people of Vermont.” To this end, the Department’s effort to protect black bear and its habitats include; land acquisition, public outreach, regulatory oversight, habitat enhancement activities, extensive data collection and studies, the regulation of hunting, and long-term planning efforts that focus on black bear. The Department is committed to managing for sustainable black bear populations for the benefit of all Vermonters.

Unfortunately, there are conflicts between wildlife and people. Department bear management efforts are complicated by the fact that bears cause extensive property and crop damage annually and that, in rare instances, they can injure and even kill people. Bear complaints have risen steadily in the last few years. For example, there were 136 complaints related to bears in 2002, and 315 complaints to law enforcement and 297 online or website complaints in 2018.<sup>1</sup> Vermont law allows a person to kill a bear doing damage to livestock, bees, structures, or crops if they take “reasonable nonlethal measures to protect his or her property.” A person is not required to take nonlethal steps if a bear threatens a person, livestock, pet, an occupied building, or is damaging a corn crop. See Attachment A for the statutory language.

The Protect Our Wildlife letter focuses on a farmer in Huntington who took several bear that were eating and damaging portions of his corn crop, as well as a person who shot a bear in defense of his dog. Under the statute, these Vermont citizens were justified in killing the bears without taking nonlethal actions. Here are the facts:

---

<sup>1</sup> The online website complaint system was not in existence in 2002.

### ***Farmer***

- The farmer reported the taking of each bear to law enforcement within 12 hours as required by the statute.
- The farmer fully cooperated with every investigation.
- A warden investigated every report and every investigation was entered into the law enforcement case documentation system.
- The wardens observed damage to the corn crops and the farmer reported credible evidence of losses of tens of thousands of dollars. As such, the wardens confirmed that bears were causing substantial damage to the farmer's corn crop.
- The investigations showed that the farmer or his agent took bear that were damaging unharvested corn fields, and this is NOT a violation of the statute.
- These fact patterns are not feeding or baiting bear under the law and the farmer is exempt from taking non-lethal steps to deter bears by statute.<sup>2</sup>
- Bear complaints and mortalities associated with bear human conflicts tend to be higher when natural food sources are scarce; particularly when the mast production of bear foods such as; beech nuts and acorns is low. 2018 was such a year.
- The Department did not request, and the farmer did not submit an affidavit or statement to the Department.
- Most of the investigations noted that the bear meat was dressed and indicate that the warden gave the person who took the bear a tag. On other occasions, a warden wrote the case investigation number on his or her card. No document entitled "Certification" was issued.

### ***Dog Owner***

- The dog owner reported the taking of bear to law enforcement within 12 hours as required by the statute:
- A warden conducted an investigation and entered it into the law enforcement case documentation system. Despite some suspicion, the warden found no proof that the dog owner did not act in defense of his dog.
- The dog owner reported that around 8:30 pm on July 2, 2018, a bear walked out of the woods and started to, "go after" their Australian Shepard. The dog was tied up to the doghouse about 20 feet from the residence. The complainant stated he tried to walk to grab the dog off the lead, but the bear kept coming at him" and so he shot it. See Attachment B.
- In 2017, the Department received reports that bears killed three domestic dogs in southern Vermont.
- The Department did not request, and the dog owner did not submit an affidavit or statement to the Department
- No document entitled "Certification" was issued.

---

<sup>2</sup> 10 V.S.A § 4827a (a) prohibits feeding bear with the following exceptions:

(1) the Commissioner may issue a license or permit under section 4152 for scientific research, mitigation of wildlife damage, nuisance problems, or a wildlife population reduction program;

(2) the planting, cultivating, or harvesting of crops directly associated with agricultural practices, including planted wildlife food plots; or

(3) the distribution of feed material for livestock.

Each incident was investigated and fully documented by law enforcement. In the last ten years the law enforcement division of the Department looked into over 1800 bear related complaints. The complaints were investigated and 32 of these matters resulted in formal enforcement. See the graph below. Note that that the mortalities associated with bear damages and human conflicts ranged from 7 to 42 bears annually between 2009 to 2018, for a total of 203 bears and an average of just over 20 bears a year. See Attachment B. This means that of the 203 instances where bears were killed due to such conflicts 2009 thru 2018, about 12% or 25 instances ended with either a warning or more formal enforcement action, as warranted by the circumstances. Specifically, wardens issued 16 citations, and issued 9 warnings. This is hardly “loose” enforcement.

Year	Investigations	Arrests / Citations	Warnings
2009	147	1	0
2010	187	3	1
2011	117	2	1
2012	233	0	0
2013	111	0	1
2014	153	1	1
2015	133	3	2
2016	263	3	0
2017	160	1	1
2018	315	2	2
TOTALS	1819	16	9

While it is true that the Department has not demanded affidavits or issued certifications, there is no question that these matters were fully investigated, and that the Department has taken appropriate action to ensure that the taking of these bears is permissible under the law. Contrary to the Protect Our Wildlife claims, these figures and the records provided to Protect Our Wildlife demonstrate the significant effort and follow through by Department law enforcement personnel. Many more bear mortalities were likely prevented by Department intervention.

The Protect Our Wildlife letter also makes a number of perplexing statements. The Department will not address them all, but the following is an example. “The landowner’s 15+ acres of cornfields are within close proximity to a state forest so they are essentially baiting bears from their natural habitat to feed on the corn.” As noted above, the fact pattern in question is not baiting under the law. Vermont is approximately 76% forest land and approximately 98 % of that forest land is productive timber. In addition, about 20% of the land mass in Vermont is conserved mostly within forest lands. Here, it is the Department’s understanding that the farmer owns approximately 150 acres of corn crop fields and electric fencing would likely be very expensive. We are not sure what Protect Our Wildlife is advocating for here, but it is not reasonable to require all landowners and farmers to maintain electric fences and unforested buffers around crops, orchards or gardens.

Finally, the Protect Our Wildlife assertion that the local bear population is in jeopardy is without scientific basis. Vermont has a healthy and abundant population of bears and while bear

numbers fluctuate naturally, the population ranges from 4500 to 6000 bears annually.<sup>3</sup> Currently, the loss of wildlife habitat due to development and land use activities is the most significant threat to bears. The taking of a few bears in any one area of the state annually presents no threat to local or regional Vermont bear populations. Significantly more bears die from vehicular collisions on an annual basis. See Attachment C.

The Department appreciates the interest of the public and this Committee in the welfare of black bear in Vermont. Please let me know if we can provide you with any additional information regarding this matter. I can make Department law enforcement staff and the black bear biologist available to meet with you upon request. Feel free to reach out to me at 802-595-3691 or [louis.porter@vermont.com](mailto:louis.porter@vermont.com) with any questions or concerns you may have.

Sincerely,



Louis Porter  
Commissioner, Department of Fish and Wildlife

---

<sup>3</sup> Bear populations were significantly lower in the late 1800s and early 1900s primarily because of habitat destruction associated with the deforestation of Vermont. Over the years, laws to protect black bear have been promulgated; including prohibiting trapping of bears, regulating bear hound hunting, outlawing baiting, and prohibiting the shooting of bears at dumps. In part because of improvements to habitat and the management efforts of the Department of Fish and Wildlife, black bears have made a strong comeback in Vermont.

## ATTACHMENT A

10 V.S.A. § 4827. Black bear doing damage

(a)(1) Except as provided in subdivision (2) of this subsection and in subsection 4827a(b) of this title, a person, an authorized member of the person's family, or the person's authorized regular on-premise employee may, after attempting reasonable nonlethal measures to protect his or her property, take on land owned or occupied by the person a bear which he or she can prove was doing damage to the following:

(A) livestock, a pet, or another domestic animal;

(B) bees or bee hives;

(C) a vehicle, building, shed, or any dwelling; or

(D) a crop or crop-bearing plant other than grass.

(2)(A) The requirements of subdivision (1) of this subsection shall not apply in exigent circumstances. As used in this subdivision, "exigent circumstances" means the need for immediate protection of a person, livestock, pet, domestic animal, or occupied dwelling.

(B) Landowners or lessees subject to bear damage in unharvested cornfields shall be exempt from having to first use nonlethal control measures prior to taking a black bear doing damage under subdivision (a)(1) of this section.

(b) A person authorized to take a bear under subsection (a) of this section may designate one individual who holds a resident Vermont hunting license as an agent to take a bear doing damage on his or her behalf. The person may not offer or accept any form of payment to or from the agent under this subsection except as allowed in subsection (e) of this section.

(c) A person who wounds or kills a bear pursuant to this section shall immediately report the wounding or killing to a game warden. Within 12 hours of the wounding or killing, the person who performed the act shall submit a written, signed report relating the date, time, place, and reason for the wounding or killing to a game warden.

(d) A person who kills a bear under this section shall immediately properly dress the carcass and care for the meat.

(e) The game warden shall immediately investigate the case and if satisfied that the bear was taken as provided in this section, the warden shall give the person who owns or occupies the land a certificate of his or her finding in the matter. The certificate shall entitle the person who owns or occupies the land to the ownership of the carcass. However, the person may not sell or give away the carcass except to offer all or a portion of it to an agent designated under subsection (b) of this section as compensation for killing the bear. Any carcass not desired for home consumption in the household of the certificate holder or designated agent shall be turned over to a game warden.

(f) [Repealed.]

(g) The Commissioner is authorized to issue an order requiring a person to contain food which has the effect of luring a bear onto property owned or occupied by the person. In this subsection, food does not include a crop, a crop bearing plant, or livestock. The order shall include specific measures which would constitute containing the food and the date by which the food shall be contained. Containing food means to prevent a bear from having access to the food. Following issuance of an order under this subsection, a person who fails to contain the food may not shoot a bear causing damage pursuant to this section. However, if the person contains the food and a bear continues to do damage pursuant to subsection (a) of this section, 30 days or more after containment, the person may take the bear pursuant to this section.

(h) A person who shoots a bear in violation of subsection (g) of this section or subsection 4827a(b) of this title may be fined up to \$2,000.00. A person who does not remove bait or contain food

following an order issued under subsection (g) of this section or subsection 4827a(b) may be fined up to \$1,000.00.

09/17/19  
11:03

Vermont Department of Fish and Wildlife  
LAW Incident Table:

3693  
Page: 1

Incident  
Incident Number 18FW04330 Nature Fish & Game  
Case Number Image  
Address ✓ [REDACTED]  
City [REDACTED] State VT ZIP 05355  
Area 1319 WARDBORO Contact [REDACTED]

Complainant  
Numbr [REDACTED]  
Last [REDACTED] Fst [REDACTED] Mid [REDACTED]  
DOB [REDACTED] SSN - - Adr ✓ [REDACTED]  
Race W Sx M Tel [REDACTED] Cty Wardsboro ST VT ZIP 05355

Details  
Offense/Statute 8204  
Reported FGO Observed 8204

Circumstances  
Rspndg Officers Isherwood, K  
Rspnsbl Officer Isherwood, K Agency FG CAD Call ID 6458366  
Received By Larivee, S Last RadLog 23:21:55 07/02/18 CMPLT  
How Received T Telephone Clearance CI Cleared Investigator  
When Reported 21:38:34 07/02/18 Disposition COM Disp Date 07/18/18  
Occurrd between 21:38:24 07/02/18 Judicial Sts  
and 21:38:24 07/02/18 Supervisor  
MO

Narrative  
Narrative (See below)  
Supplement (See below)

=====

INVOLVEMENTS:  
Type Record # Date Description Relationship  
NM 156685 07/02/18 [REDACTED] \*Complainant  
CA 6458366 07/02/18 21:38 07/02/18 Fish & Game \*Initiating Call

LAW Incident Offenses Detail:

Seq Code	Offense and Statute Codes	Amount
	Statute Code	
1	8204 Bear Killed Doing Damage	0.00

LAW Incident Responders Detail  
Responding Officers

Seq	Name	Unit
1	Isherwood, K	974

Main Radio Log Table:

Time/Date	Typ	Unit	Code	Zone	Agnc	Description
23:21:55	07/	1 974	CMPLT	FGB1	FG	incid#=18FW04330 Completed cal
22:54:20	07/	1 974	43	FGB1	FG	out of the truck with the comp
22:27:20	07/	1 974	ARRVD	FGB1	FG	incid#=18FW04330 Arrived on sc
21:59:01	07/	1 974	ENRT	FGB1	FG	incid#=18FW04330 Enroute to a

Narrative:

On July 2nd, 2018 at approximately 2140 hours I was notified by State Police Dispatch of a bear that had been shot in the town of Wardsboro. I spoke with the complainant, [REDACTED] (DOB: [REDACTED]) on the phone who stated the bear was staring at the dog when he shot it. I determined I needed to respond to investigate as the initial report did not sound like the shooting of the bear was justified under "exigent circumstances". I advised [REDACTED] that I would be coming over and to start field dressing the bear and caring for the meat as it was approximately 84 degrees Farrenheight.

Upon arrival, I had [REDACTED] walk me through what happened. He stated that at approximately 2030 hours a bear had walked out of the woods and started to, "go after" their Australian Shepard. The dog was tied up to the dog house about 20 feet from the residence. The complainant stated he tried to walk to grab the dog off the lead but the bear kept coming at him.

[REDACTED] took one shot with a Remington Model 788 bearing serial number #B6117041. The gun was chambered in .243 caliber. The bear ran approximately 50 yards into the woods after the shot then died.

[REDACTED] was in the process of field dressing the bear when I had arrived and stated they were going to keep the meat.

I have no evidence to prove the bear wasn't going after their dog at the time, but I suspect it wasn't.

I gave [REDACTED] the case number.

Nothing Further.

Kyle Isherwood, State Game Warden

Law Supplemental Narrative:

		Supplemental Narratives
Seq Name	Date	Narrative
1 Isherwood, K	07:10:22 07/18/18	
Bear Mortality Report	( x )	
Bear Injury Report	( )	
Nuisance Bear Report	( )	
Sighting Only	( )	

Incident/Case #: 18FW04330

Warden Name Kyle Isherwood Date 07/02/2018

Locality (911 Residence): [REDACTED]

Mile Marker: WMU: Q

Town: Wardsboro

UTM: (if 911 address not available) E \_\_\_\_\_ N \_\_\_\_\_

Response Type: By Phone ( ) Visited Site ( x )

Date of Mortality or Injury:

Sex: Male ( x ) Female ( ) Unknown ( )

\*\*\*Mortality Info\*\*\*

Case of Death:

Confirmed as Illegal ( )

Motor Vehicle ( )

Damage ( )

Self-defense ( x )

Defense of Property ( x )

Other ( )

Damage/Nuisance Type:

( ) Crop Type:

( ) Livestock Type:

( ) Chickens

( ) Building Type:

( ) Bees

( ) Garbage

( ) Birdfeeders

( x ) Other describe: Pet Dog

Tooth collected? ( x ) Yes ( ) No

Ear tag #s (if present): R \_\_\_\_\_ / L \_\_\_\_\_

If bear gone on arrival, do you believe that there actually was a dead bear? ( ) Yes ( ) No

Describe incident, bear behavior, and action taken:

Bear was, "going after" the complainants Australian Shepard who was tied on a

leash to the doghouse. [REDACTED] took one shot with a .243 rifle and killed the large bear.

**\*\*Injury Info\*\***

Cause of Injury: Shot ( ) Motor Vehicle ( ) Unknown ( )

Other:

Extent of Injury, if known (be specific):

Likelihood of bear surviving: Poor ( ) Fair ( ) Good ( )

Unknown ( )

**ORIGINAL ATTACHMENT C**

<b>Year</b>	<b>Complaints</b>	<b>Additional Website Complaints / Reports</b>	<b>Legal Harvest - Hunting</b>	<b>Incidental Bear Mortalities</b>	<b>Vehicular Mortalities</b>	<b>Mortalities Illegal Hunting and Cause Unknown</b>	<b>Mortalities due to Bear Damage / Human Conflicts</b>
2003	154		721	115	81	7	27
2004	158		730	96	84	7	17
2005	159		447	94	68	19	7
2006	135		324	56	18	3	4
2007	140		425	55	41	6	8
2008	142		488	75	56	9	10
2009	143		629	107	75	20	12
2010	180		537	98	80	7	11
2011	119	39	396	60	43	10	7
2012	214	91	618	109	58	15	36
2013	188	47	556	77	50	14	13
2014	153	184	562	138	98	18	22
2015	132	47	665	128	91	27	18
2016	263	277	697	203	158	11	33
2017	197	184	622	90	66	15	9
2018	315	297	683	183	128	7	42

**UPDATED ATTACHMENT C**

<b>Year</b>	<b>Complaints</b>	<b>Additional Website Complaints / Reports</b>	<b>Legal Harvest - Hunting</b>	<b>Incidental Bear Mortalities</b>	<b>Vehicular Mortalities</b>	<b>Mortalities Illegal Hunting and Cause Unknown</b>	<b>Mortalities due to Bear Damage / Human Conflicts</b>
2003	154		721	115	81	7	27
2004	158		730	96	72	7	17
2005	159		447	94	68	19	7
2006	135		324	56	49	3	4
2007	140		425	55	41	6	8
2008	142		488	75	56	9	10
2009	143		629	107	75	20	12
2010	180		537	98	80	7	11
2011	119	39	396	60	43	10	7
2012	214	91	618	109	58	15	36
2013	188	47	556	77	50	14	13
2014	153	184	562	138	98	18	22
2015	132	47	665	128	98	12	18
2016	263	277	697	203	159	11	33
2017	197	184	622	90	66	15	9
2018	315	297	683	183	128	13	42